

guns as regulated by this article in the course of creating movie "special effects".

(b) Applications for the special license authorized by this section must be on a form prescribed by the division, duly sworn to, containing the applicant's name, business and residence address, a record of any criminal charges filed against the applicant in the United States for other than traffic law violations and the disposition of the charges, a description of the machine guns to be possessed, transported, or sold in this State, including their make and serial numbers, the sites within the State to which the machine guns will be transported, and such other information the division considers necessary to implement this section.

(c) The division may issue a special license pursuant to this section if it determines that the applicant has not been convicted of any offense other than traffic violations and the applicant clearly qualifies under item (1) or (2) of subsection (a). The special license is valid for a specified period not to exceed six months which must be stated on the license.

(d) Any person who knowingly and wilfully makes any false statement for the purpose of obtaining the special license or who violates its terms, in addition to any other penalty provided

by law, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than two years, or both.

Article 6. Using A Firearm while Under the Influence of Alcohol or A Controlled Substance

23-31-400. Definitions.

(A) As used in this article:

(1) "Use a firearm" means to discharge a firearm.

(2) "Serious bodily injury" means a physical condition which creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

(B) It is unlawful for a person who is under the influence of alcohol or a controlled substance to use a firearm in this State.

(C) A person who violates the provisions of subsection (B) is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars or imprisoned not more than two years.

(D) This article does not apply to persons lawfully defending themselves or their property.

Article 7. Local Regulations

23-31-510. Prohibition against regulation of certain matters. No governing body of any county, municipality, or other political subdivision in this State may enact or promulgate any regulation or ordinance which regulates or attempts to regulate the transfer, ownership, possession, carrying, or transportation of firearms, ammunition, components of firearms, or any combination of these things.

23-31-520. Matters subject to regulation. This article does not affect the authority of any county, municipality, or political subdivision to regulate the careless or negligent discharge or public brandishment of firearms, nor does it prevent the regulation of the use, sale, transportation, or public brandishment of firearms during the times of or a demonstrated potential for insurrection, invasions, riots, or natural disasters.

[Current through 2000 S.C. Acts 391 (July 20, 2000)]

SOUTH DAKOTA S.D. CODIFIED LAWS

Title 7. Counties

7-18A-36. Firearms regulation ordinances prohibited. No county may pass any ordinance that restricts possession, transportation, sale, transfer, ownership, manufacture or repair of firearms or ammunition or their components. Any ordinances prohibited by this section are null and void.

Title 8. Townships

8-5-13. Firearms regulation ordinances prohibited. No township may pass any ordinance that restricts possession, transportation, sale, transfer, ownership, manufacture or repair of firearms or ammunition or their components. Any ordinances prohibited by this section are null and void.

Title 9. Municipal Government

9-19-20. Firearms regulation ordinances prohibited. No municipality may pass any ordinance that restricts possession, transportation, sale, transfer, ownership, manufacture or repair of firearms or ammunition or their components. Any ordinances prohibited by this section are null and void.

Title 22. Crimes

Chapter 22-1. Definitions and General Provisions

22-1-1. Common-law rule of strict construction abrogated. The rule of the common law that penal statutes are to be strictly construed has no application to this title. All its criminal and penal provisions and all penal statutes are to be construed according to the fair import of their terms, with a view to effect their objects and promote justice.

22-1-2. Definition of terms. Terms used in this title mean: ...

(2) "**Actor,**" the person who takes the active part in a transaction; ...

(4) "**Antique firearm,**" any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, manufactured before 1899, and any replica of any firearm described in this section if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or if it uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; ...

(6) "**Concealed,**" any firearm that is totally hidden from view. If any part of the firearm is capable of being seen, it is not concealed; ...

(8) "**Controlled weapon**" includes a firearm silencer, machine gun, or short shotgun, as those terms are defined in subdivisions (17), (23), and (46) of this section;

(9) "**Crime of violence,**" any of the following crimes or an attempt to commit, or a conspiracy to commit, any of the same: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first or second degree, arson, kidnapping, felony sexual contact as defined in §§ 22-22-7 and 22-22-19.1 or any other felony in the commission of which the perpetrator used force, or was armed with a dangerous weapon, or used any explosive or destructive device;

(10) "**Dangerous weapon**" or "**deadly weapon,**" any firearm, knife or device, instrument, material or substance, whether animate or inanimate, which is calculated or designed to inflict death or serious bodily harm, or by the manner in which it is used is likely to inflict death or serious bodily harm; ...

(13) "**Destructive device,**"

(a) Any bomb, grenade, explosive missile, or similar device or any launching device therefor; or

(b) Any breakable container which contains a flammable liquid with a flashpoint of one hundred and fifty degrees Fahrenheit or less and has a wick or similar device capable of being ignited;

(c) The term does not include "**permissible fireworks**" defined by § 34-37-5; any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device; surplus ordnance sold, loaned or given by the secretary of the army pursuant to the provisions of 10 U.S.C. §§ 4684(2), 4685, or 4686; or any other device which is an antique or is a rifle which the owner intends to use solely for sporting purposes;

(14) "**Explosive,**" any substance, or combination of substances, that is used for the purpose of detonation and which, upon exposure to any external or internal force or condition, is capable of a relatively instantaneous release of gas and heat. The term does not include "permissible fireworks" as defined by § 34-37-5; ...

(16) "**Firearm,**" any weapon from which a projectile or projectiles may be discharged by gunpowder. As used in this subdivision, the word "gunpowder" includes any propellant that upon oxidization emits heat and light and is commonly used in firearms cartridges;

(17) "**Firearm silencer,**" any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol, or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any such weapon; ...

(23) "**Machine gun,**" any firearm, whatever its size and usual designation, that automatically discharges two or more cartridges by a single function of the firing device; ...

(32) "**Pistol,**" any firearm with a barrel less than sixteen inches in length, designed to expel a projectile or projectiles by the action of an explosive; ...

(44) "Seller," any person or employee engaged in the business of selling pistols at retail;

(45) "Short rifle," a rifle having a barrel less than sixteen inches long, or an overall length of less than twenty-six inches;

(46) "Short shotgun," a shotgun having a barrel less than eighteen inches long or an overall length of less than twenty-six inches;

Chapter 22-14. Unlawful Use of Weapons

22-14-5. Possession of firearm with altered serial number as felony - Exception. Any person who possesses any firearm on which the manufacturer's serial number has been changed, altered, removed or obliterated is guilty of a Class 6 felony.

This section does not apply to persons who have applied for a new serial number pursuant to § 23-7-43.

22-14-6. Possession of controlled weapon - Exceptions. Any person who knowingly possesses a controlled weapon is guilty of a Class 6 felony. Provided that, this section shall not apply to a person who:

(1) Is a law enforcement officer or member of the armed forces of the United States or South Dakota national guard acting in the lawful discharge of his duties;

(2) Has a valid state or federal license issued pursuant to law for such weapon or has registered such weapon with the proper state or federal authority pursuant to law;

(3) Possesses a controlled weapon briefly after having found it or taken it from an aggressor; or

(4) Possesses a controlled weapon, except a machine gun or short shotgun, under circumstances which negate any purpose or likelihood that the weapon would be used unlawfully.

22-14-15. Possession of firearm by one with prior violent crime conviction as felony - Fifteen-year period. No person who has been convicted in this state or elsewhere of a crime of violence or a felony under chapter 22-42, other than pursuant to § 22-42-5 or 22-42-6, may possess or have control of a firearm. A violation of this section is a Class 6 felony. This section does not apply to any person who was last discharged from prison, jail, probation, or parole, for a crime of violence or a felony under chapter 22-42, other than pursuant to § 22-42-5 or 22-42-6, more than fifteen years prior to the commission of the principal offense.

22-14-16. Providing firearm to person with known prior violent crime conviction as felony. Any person who knows that another person is prohibited by § 22-14-15 from possessing a firearm, and who knowingly gives, loans, or sells a firearm to that person is guilty of a Class 6 felony.

22-14-17. Antique firearms and firearms incapable of discharge exempt. This chapter does not apply to any firearm which has been permanently altered so it is incapable of being discharged.

22-14-30. Possession of firearm by one with prior drug possession conviction - Exception. No person who has been convicted of a felony pursuant to § 22-42-5 or 22-42-6 or of a felony for a crime with the same elements in another state may possess or have control of a firearm. A violation of this section is a Class 6 felony. This section does not apply to any person who was last discharged from prison, jail, probation, or parole, for a felony pursuant to § 22-42-5 or 22-42-6 more than five years prior to the commission of the principal offense.

Chapter 22-14A. Explosives and Destructive Devices

22-14A-4: Sale, transportation, or possession of destructive device as felony - Increased penalty for prior violent crime conviction. Any person who knowingly sells, offers for sale, transports or possesses any destructive device is guilty of a Class 4 felony. If such person has been previously convicted of a crime of violence in this state or elsewhere, he is guilty of a Class 3 felony.

22-14A-13. Unauthorized possession of substances with intent to make destructive device as felony. Any person who possesses any substance, material, or any combination of substances or materials, with the intent to make a destructive device without first obtaining a permit from the department of public safety to make such device, is guilty of a Class 5 felony.

22-14A-16. Armed forces, law enforcement agencies, and licensed sellers or users of explosives and destructive devices exempt. This chapter shall not apply to the armed forces of the United States, the national guard, any law enforcement agency or any officer, agent, employee or member thereof acting in a lawful capacity and any person possessing a valid seller's permit or user's permit from the United States federal government for explosive and destructive devices.

22-14A-21. Possession of registered or licensed destructive devices permitted. Any person may possess destructive devices that are registered with, or licensed by, the state or federal government pursuant to law.

Title 23. Law Enforcement

Chapter 23-7. Firearms Control

23-7-1. Definitions applicable to chapter. Terms used in this chapter, unless the context otherwise requires, mean:

(1) "Antique firearm," a firearm as defined in subdivision 22-1-2 (4);

(2) "Concealed," a firearm as defined in subdivision 22-1-2 (6);

(3) "Crime of violence," an action as defined in subdivision 22-1-2 (9);

(4) "Pistol," a firearm as defined in subdivision 22-1-2 (32);

(5) "Seller," a person as defined in subdivision 22-1-2 (44).

23-7-1.1. Antique or nondischargeable firearms excepted. This chapter shall not apply to antique firearms or to firearms which have been permanently altered so they are incapable of being discharged.

23-7-9. Delivery of pistol to purchaser - Waiting period - Wrapped and unloaded - Violation as misdemeanor. No seller may deliver a pistol to a person who has purchased a pistol until forty-eight hours have elapsed from the time of the sale of the pistol. A person who has in his possession a valid permit to carry a concealed pistol shall be exempt from the forty-eight hour waiting period. When a pistol is delivered, the pistol shall be securely wrapped and shall be unloaded. A pistol that is securely wrapped and delivered to a purchaser pursuant to this section is not a concealed weapon under § 22-14-9. A violation of this section is a Class 1 misdemeanor.

23-7-10. Application for purchase of pistol - Form and contents - Distribution of copies. At the time of purchase of a pistol, a person who does not have in his possession a valid permit to

carry a concealed pistol shall complete an application to purchase a pistol. The form of the application to purchase a pistol shall be prescribed by the secretary of state. The application shall require the applicant's complete name, address, occupation, place and date of birth, physical description, the date and hour of application, a statement that the applicant has never pled guilty to, nolo contendere to, or been convicted of a crime of violence, a statement that the information on the application is true and correct, and his signature. The seller shall within six hours send by first class mail or hand deliver the completed application to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident. The duplicate shall be returned to the seller by the chief of police or sheriff and the original shall be retained by him for a period of one year.

23-7-11. Regulation does not apply to sale of pistols at wholesale. Sections 23-7-7 to 23-7-12, inclusive, do not apply to sales at wholesale.

23-7-12. False information or false evidence of identity to secure pistol or permit as felony. No person, in purchasing or otherwise securing delivery of a pistol or in applying for a permit to carry a concealed pistol, may give false information or offer false evidence of his identity. A violation of this section is a Class 6 felony.

23-7-18. Sale of pistol by retail dealer - Restrictions - Misdemeanor. No pistol shall be sold in violation of any provisions of this chapter, nor shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity. A violation of this section is a Class 1 misdemeanor.

23-7-40. Purchase of rifles and shotguns by residents of South Dakota and contiguous states - Implementation of federal provisions. The state of South Dakota herewith permits residents of contiguous states and residents of this state, not otherwise precluded by any applicable laws, to purchase, sell, trade, convey, deliver, or transport rifles, shotguns, ammunition, reloading components or firearms accessories in South Dakota and in states contiguous to South Dakota. This authorization is enacted to implement for this state the permissive firearms sales and delivery provisions in section 922 (b), (3) (A) of Public Law 90-618 of the 90th United States Congress, second session.

23-7-43. New serial number engraved or stamped on firearm. Upon application by an owner of a firearm, the director of the division of criminal investigation shall engrave or stamp a new serial number on any firearm on which the manufacturer's serial number has been changed, altered, removed or obliterated.

23-7-44. Possession of pistols by minors prohibited - Misdemeanor. No person under the age of eighteen years may knowingly possess a pistol. A violation of this section is a Class 1 misdemeanor.

23-7-45. Exceptions to prohibition against possession of pistols by minors. The provisions of § 23-7-44 or to a criminal prosecution brought after transfer pursuant to chapter 26-11, do not apply to any minor who has the consent of the minor's parent or guardian to possess such pistol, and:

(1) That the minor was in the presence of the minor's parent or guardian;

(2) That the minor was on premises owned or leased by the minor or the minor's parent, guardian, or immediate family member;

(3) That the minor was in the presence of a licensed or accredited gun safety instructor; or

(4) That the pistol was being used for farming, ranching, hunting, trapping, target shooting, or gun safety instruction.

23-7-46. Prohibited transfer of firearms and ammunition to juveniles - Felony. No person may sell, transfer, give, loan, furnish, or deliver a firearm or firearm ammunition to any person under the age of eighteen years if such person knows or reasonably believes that the minor recipient of the transfer intended, at the time of transfer, to use the firearm or ammunition in the commission or attempted commission of a crime of violence as defined in subdivision 22-1-2 (9).

The affirmative defenses contained in chapter 23-7 do not apply to a prosecution under this section. A violation of this section is a Class 5 felony.

Title 37. Trade Regulation

Chapter 17. Sale Of Serially Numbered Appliances And Equipment

37-17-1. Sale after removal or alteration of serial number as misdemeanor or felony. Any person who knowingly sells or offers for sale any ... firearm ... or any mechanical or electrical de-

vice, appliance, contrivance, material, piece of apparatus or equipment, which is identified by a serial number placed thereon by the manufacturer, the original serial number of which has been destroyed, removed, altered, covered, or defaced, is guilty of a Class 2 misdemeanor if the value of the property is two hundred dollars or less. If the value of the property is more than two hundred dollars, such person is guilty of a Class 4 felony.

[Current through 2000 Regular Session]

TENNESSEE

TENN. CODE

Title 39. Criminal Offenses

Chapter 17. Offenses Against Public Health, Safety and Welfare

Part 13. Weapons

39-17-1301. Definitions. As used in this part, unless the context otherwise requires:

(1) "Club" means any instrument that is specially designed, made or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument;

(2) "Crime of violence" includes any degree of murder, voluntary manslaughter, aggravated rape, rape, especially aggravated robbery, aggravated robbery, burglary, aggravated assault or aggravated kidnapping;

(3) "**Explosive weapon**" means any explosive, incendiary or poisonous gas:

(A) Bomb;

(B) Grenade;

(C) Rocket;

(D) Mine; or

(E) Shell, missile or projectile that is designed, made or adapted for the purpose of inflicting serious bodily injury, death or substantial property damage;

(4) "**Firearm silencer**" means any device designed, made or adapted to muffle the report of a firearm;

(5) "Immediate vicinity" refers to the area within the person's immediate control within which the person has ready access to the ammunition; ...

(8) "**Machine gun**" means any firearm that is capable of shooting more than two (2) shots automatically, without manual reloading, by a single function of the trigger;

(9) "**Restricted firearm ammunition**" means any cartridge containing a bullet coated with a plastic substance with other than a lead or lead alloy core or a jacketed bullet with other than a lead or lead alloy core or a cartridge of which the bullet itself is wholly composed of a metal or metal alloy other than lead. "Restricted firearm ammunition" does not include shotgun shells or solid plastic bullets;

(10) "**Rifle**" means any firearm designed, made or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger;

(11) "**Short barrel**" means a barrel length of less than sixteen inches (16") for a rifle and eighteen inches (18") for a shotgun, or an overall firearm length of less than twenty-six inches (26");

(12) "**Shotgun**" means any firearm designed, made or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire through a smooth-bore barrel either a number of ball shot or a single projectile by a single function of the trigger; ...

(14) "**Unloaded**" means the rifle, shotgun or handgun does not have ammunition in the chamber, cylinder, clip or magazine, and no clip or magazine is in the immediate vicinity of the weapon.

39-17-1302. Prohibited weapons.

(a) A person commits an offense who intentionally or knowingly possesses, manufactures, transports, repairs or sells:

(1) An explosive or an explosive weapon;

(2) A device principally designed, made or adapted for delivering or shooting an explosive weapon;

(3) A machine gun;

(4) A short-barrel rifle or shotgun;

(5) A firearm silencer;

(6) A switchblade knife or knuckles; or

(7) Any other implement for infliction of serious bodily injury or death which has no common lawful purpose.

(b) It is a defense to prosecution under this section that the person's conduct:

(1) Was incident to the performance of official duty and pursuant to military regulations in the army, navy, air force, coast guard or marine service of the United States or the Tennessee national guard, or was incident to the performance of official duty in a governmental law enforcement agency or a penal institution;

(2) Was incident to engaging in a lawful commercial or business transaction with an organization identified in subdivision (b)(1);

(3) Was incident to using an explosive or an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise;

(4) Was incident to using the weapon in a manner reasonably related to a lawful dramatic performance or scientific research;

(5) Was incident to displaying the weapon in a public museum or exhibition;

(6) Was licensed by the state of Tennessee as a manufacturer, importer or dealer in weapons; provided, that the manufacture, import, purchase, possession, sale or disposition of weapons is authorized and incident to carrying on the business for which licensed and is for scientific or research purposes or sale or disposition to the organization designated in subdivision (b)(1); or

(7) Involved acquisition or possession of a sawed-off shotgun, sawed-off rifle, machine gun

or firearm silencer which is validly registered to the person under federal law in the National Firearms Registration and Transfer Records. A person who acquires or possesses a firearm registered as required by this subdivision shall retain proof of registration.

(c) It is an affirmative defense to prosecution under this section which the person must prove by a preponderance of the evidence that:

(1) The person's conduct was relative to dealing with the weapon solely as a curio, ornament or keepsake, and if the weapon is a type described in subdivisions (a)(1)-(5), that it was in a nonfunctioning condition and could not readily be made operable; or

(2) The possession was brief and occurred as a consequence of having found the weapon or taken it from an aggressor.

(d) (1) An offense under subdivisions (a)(1)-(5) is a Class E felony.

(2) An offense under subdivision (a)(6) or (7) is a Class A misdemeanor.

39-17-1303. Unlawful sale, loan or gift of firearm.

(a) A person commits an offense who:

(1) Intentionally, knowingly or recklessly sells, loans or makes a gift of a firearm or switchblade knife to a minor;

(2) Intentionally, knowingly or recklessly sells a firearm or ammunition for a firearm to a person who is intoxicated; or

(3) Intentionally, knowingly, recklessly or with criminal negligence violates the provisions of § 39-17-1316.

(b) It is a defense to prosecution under subdivision (a)(1) that:

(1) A firearm was loaned or given to a minor for the purposes of hunting, trapping, fishing, camping, sport shooting or any other lawful sporting activity; and

(2) The person is not required to obtain a license under § 39-17-1316.

(c) For purposes of this section, "intoxicated" means substantial impairment of mental or physical capacity resulting from introduction of any substance into the body.

(d) An offense under this section is a Class A misdemeanor.

39-17-1304. Restrictions on firearm ammunition.

(a) It is an offense for any person to possess, use or attempt to use restricted firearm ammunition while committing or attempting to commit a crime of violence. A violation of this section constitutes a separate and distinct felony.

(b) It is an offense for any person or corporation to manufacture, sell, offer for sale, display for sale or use in this state any ammunition cart-